

BOISE, FRIDAY, JANUARY 20TH, 2023, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 49958
)	
DARIN MARSHALL OGDEN,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Steven J. Hippler, District Judge.

Eric D. Fredericksen, State Appellate Public Defender, attorney for Appellant.

Lawrence G. Wasden, Idaho Attorney General, Boise, attorney for Respondent.

This case comes to the Court on a petition for review from the Idaho Court of Appeals. Darin Ogden appeals from his judgment of conviction for possession of methamphetamine and drug paraphernalia. During a consensual encounter, officers searched Ogden’s vehicle outside of a business and arrested Ogden for possession. At trial, the State introduced redacted on-body video showing the search. The redacted video showed statements officers made to Ogden on opening a locked box inside the vehicle, but the State cut the video before Ogden responded. Ogden was not permitted to play his response to the officers. On appeal, Ogden argues his response in the video was admissible as an excited utterance and separately admissible under the completeness doctrine. The district court separately instructed the State to redact video of an officer who remarked to Ogden that the discovery of a tactical vest made the officer “nervous.” The video, however, was not redacted before it played to the jury. Ogden argues it was error for the district court to permit irrelevant evidence. The jury found Ogden guilty on both counts.

At sentencing, Ogden objected to portions of a presentence investigation (PSI) report that included investigative and third-party records from two pending unrelated cases, and he objected to seven allegedly inaccurate statements in the PSI. The district court granted Ogden’s request to strike the third-party’s records, but Ogden argues those records remained in the PSI. Ogden also argues the district court affirmatively accepted five of his corrections but did not redline the PSI. The district court sentenced Ogden to seven years, with two years fixed for possession of methamphetamine and credit for time served for possession of paraphernalia. Ogden appealed to the Court of Appeals, which affirmed, and then he petitioned for review to this Court, which was granted.